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ABSTRACT

A study of the criminal justice system in New York City led to the publication in December 1982 of "A Guide to Our Criminal Justice System." A portion of the guide dealt with the steps involved in the arrest to disposition of a juvenile. On July 1, 1983, the New York State Legislature's Act to "Recodify the Family Court Act" went into effect. The present publication describes the highlights of the current steps involved in the arrest to disposition of juveniles and updates the sequence in accordance with the 1983 regulations governing the Family Court and juvenile transgressors. A skeletal organization chart of the agencies involved and a short glossary accompany the text. (MLF)

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The League of Women Voters of the City of New York Education Fund

A GUIDE TO OUR JUVENILE DELINQUENT SYSTEM:

The Family Court and the Juvenile Transgressor

EA 017 088

League of Women Voters
of the City of New York

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Lenore Chester, President

A GUIDE TO OUR JUVENILE DELINQUENT SYSTEM:

The Family Court and the Juvenile Transgressor

Prepared by

The Criminal Justice Committee
League of Women Voters of the City of New York

Lorraine W. Addelston and Helen E. Harden
Co-Directors

December, 1983

Contents:

1. Introduction 1
2. The Path from Arrest to Disposition 2
3. Skeletal Organization Chart of the Agencies Involved 8
4. Glossary 9

Introduction:

In December, 1982, the League of Women Voters of the City of New York Education Fund published *"A Guide to Our Criminal Justice System, Vol. I."*

The Guide opened with these words:

> The League of Women Voters of the City of New York, as part of its purpose to promote informed and active citizen participation in government, has undertaken a study of the criminal justice system in New York City. This has been done under the general theme:
>
> Building Toward a Better New York
>
> In taking the pulse of the citizens of our city, The Committee on Criminal Justice learned blame has been thrust upon the judges, the police, the district attorneys, the probation officers et al in turn. The resulting questions became: Is there a system of criminal justice? Does anyone know how, from whom and to whom justice flows? Whose responsibilities are the successful conclusions to steps in the system? Where is the authority? Where is the accountability? How can we seek improvements to better our city?
>
> Our first step was to determine how the system is structured and functioning. When we know what the system purports to do, we can proceed to evaluate and to make suggestions for improvement. To accomplish the first step we prepared A GUIDE TO OUR CRIMINAL JUSTICE SYSTEM and an ORGANIZATION CHART OF THE N.Y.C. CRIMINAL JUSTICE SYSTEM. These were the work of a sub-committee chaired by Dr. Grace S. Wachs of our Committee on Criminal Justice, assisted by Jay Cohen, Legislative Counsel of the Office of the Coordinator of Criminal Justice of the Mayor of the City of New York and Dr. William Wachs, Consultant.

One portion of that Guide dealt with the steps involved in the "Arrest to Disposition" of a Juvenile (under 16 ... not prosecuted as a juvenile offender in an adult court ... not designated as a Person in Need of Supervision). On July 1, 1983, the New York State Legislature's Act to "Recodify the Family Court Act", having been signed by the Governor, went into effect. The provisions of that statute represent significant changes in what the December, 1982 Guide described. For that reason, the League has published "A Guide to Our Juvenile Delinquent System" which replaces the 1982 Volume I material on the subject of juvenile justice.

Volume II describes the highlights of the current steps involved in the arrest to disposition of such juveniles. It updates the sequence in accordance with the 1983 regulations governing The Family Court and juvenile transgressors.

The League of Women Voters of the City of New York Education Fund is also indebted to the Research and Development Operations of Wang Laboratories, Inc. in Lowell, Massachusetts for its technical assistance in the word processing and typesetting of the guides.

Lorraine W. Addelston, Editor

THE PATH FROM ARREST TO DISPOSITION - A NARRATIVE

The Structure and Function of
The New York City Juvenile Delinquent Justice System
as of June 1, 1983

Report of Ad Hoc Sub-Committee consisting of (in alphabetical order):

Lorraine W. Addelston,	Director, Criminal Justice, League of Women Voters City of New York
Wilda Chevers, Ph.D.,	Deputy Commissioner Probation, City of New York
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William Wachs, Ph.D.,	Consultant
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	and
Helen E. Harden,	League of Women Voters City of New York, Ad Hoc Committee Chairman

□ □ □

I. A Police Officer arrests a person between 7 and 16 years of age because either:

A. The Police Officer personally witnessed the act involved; or

B. A private person (including a person such as a private security officer) has effected a Citizen's Arrest of a person between seven and sixteen years of age; the private person has told a Police Officer the details of the act causing the Citizen's Arrest; and the Police Officer, believing that there is reasonable cause, arrests the person involved; or

C. An individual (Complainant) has told a Police Officer that a specified person under the age of sixteen has committed an act, and the Police Officer, believing that there is reasonable cause, arrests the person involved.

II. Within 24 hours of the arrest, the Police Officer tries to notify the person's parent or guardian of the arrest.

A. If the Police Officer *has* been able to notify the parent or guardian, the Officer issues to the child, and to the parent or guardian, a Family Court Appearance Ticket, returnable:

1. For a *Designated Felony*, within 72 hours.

2. For *other Felonies and for Misdemeanors*, within 14 days.

B. If the Police Officer *has not* been able to notify the parent or guardian, the Officer:

1. Takes the child directly to the Family Court, if it *is* in session

2. Takes the child to the Detention Facility (Spofford Juvenile Center), if the court is not in session.

III. Where a child has been taken into Detention, Court rules provide criteria for the Detention Facility to decide whether to:

A. Issue a Family Court Appearance Ticket (if the parent or guardian can be located); or

B Continue Detention, in which case:

1. Within 72 hours of the child's having been taken into Detention, or the next day the court is in session, whichever is sooner, the child must be brought before the Court by the Detention Facility, for a Detention Hearing.

2. The Presentment Agency presents an application to the Court.

3. After a hearing, the judge may:

   a. Order the release of the child, if the court does not have jurisdiction, and dismiss the case (Out of the System); *or*

   b. Refer the child to Probation Intake, prior to the filing of a petition; *or*

   c. Direct the filing of a petition.

IV. Where a Family Court Appearance Ticket has been issued to the child, and to the parent or guardian, they are referred to Probation Intake; if there is a failure to appear (at Probation Intake) by:

A. **The Respondent**

   a. The Probation Department *may* attempt to secure voluntary attendance, or refer the matter to the Presentment Agency.

   b. If the respondent does *not* respond within seven (7) days, the case *must* be referred to the Presentment Agency.

B. **The Complainant**

   a. If the complainant fails to appear, the Probation Department *must* attempt to secure voluntary attendance.

   b. If the complainant does *not* respond within seven (7) days, the case *must* be referred to the Presentment Agency.

V. At Probation Intake, the Probation Department either:

A. Makes an Adjustment.

   1. At the Probation Intake conference, the Intake Officer talks with the juvenile, the parents, the complainant, and any other interested parties, to determine whether an adjustment can be made.

   2. Efforts at adjustment may extend up to a period of two (2) months, and an additional two (2) months with the permission of the court — a total of four (4) months.

   3. An adjustment may take place only with the consent of all parties (including agreement to refer the case to a community agency for service); however:

      a. In *Designated Felony Cases*, adjustments cannot be made without the permission of the court.

      b. In addition, juveniles who have had prior adjustments of certain specified charges require the approval of the Presentment Agency and the Court, for adjustment.

B. Or refers the case for Petition.

1. If a delinquency case is not adjusted at Probation Intake, it is referred, by the Probation Department, to the Presentment Agency, for Petition.

2. The Presentment Agency may decline to prosecute, in which event the case is Out of the System.

VI. Where a Petition has been filed, the Court may either:

A. Refer the matter back to the Probation Department for possible Adjustment.

1. The Court may do this, in the case of a Designated Felony, only with the approval of the complainant, the Presentment Agency and the respondent.

2. For all other offenses, the approvals of only the complainant and the respondent are required.

B. Or conduct an Initial Appearance,

VII. At the Initial Appearance in Family Court:

A. The Judge effects the assignment of Counsel.

B. The respondent is notified of his/her rights, and of the charges.

C. The Presentment Agency introduces any previous delinquency findings entered by a Family Court against the respondent.

D. Fingerprints, Probation and pertinent Court Records are introduced.

E. The respondent makes admissions and/or denials, and these are entered by the Court.

F. The Court will, at its discretion, either:

1. Release the respondent (who then goes Out of the System), either on his/her own recognizance or to an Alternative to Detention; or

2. Direct Detention.

VIII. If Detention has been directed, the Court will hold a Probable Cause Hearing within 31 days, and if the Judge finds that there is:

A. **No Probable Cause** for further pursuit of the matter, he/she releases the respondent Out of the System.

B. **Probable Cause**, one or more of the following Pre-Trial Motions can be made (within 30 days of the Initial Appearance):

1. For Severance/Consolidation.

2. For Suppression of evidence.

3. For Discovery of evidence.

4. For Change of Venue.

5. For dismissal of the Petition.

6. For a Bill of Particulars.

7. For a Fact-Finding Hearing.

IX. Where the Court has decided to hold a Fact-Finding Hearing,

A. The Hearing must begin:

1. For respondents in Detention:

a. Within 14 days of the Initial Appearance, if the child is charged with what the Statute calls A, B or C felonies.

b. Within 3 days of the Initial Appearance, if the child is charged with any other offense.

2. For respondents *not* in Detention, within 60 days of the Initial Appearance.

B. After the Hearing, if the Court decides that there:

1. Is *no* finding of fact, it releases the child to go out of the system.

2. *Is* a finding of fact, the Court:

a. *Must* refer the case to the Probation Department, for Investigation and Report.

1. Where the finding involves a Designated Felony Act; and a Diagnostic Assessment *must* be made.

2. Where the finding involves any other Felony Act; and a Diagnostic Assessment is *discretionary* with the Court.

3. Where the Court is almost sure that it will dispose of the case by Placement.

b. *May* refer the case to the Probation Department for Investigation and Report, and a Diagnostic Assessment is discretionary with the Court.

X. Where the Court has referred the case to the Probation Department for Investigation and Report, the Department must submit the Report to the Court *5 days prior* to the Dispositional Hearing.

XI. The Dispositional Hearing,

A. The Hearing is held either after Investigation and Report or, where none was asked for, where the Court has decided, at a Fact Finding Hearing, that there *is* a finding of fact.

B. The Hearing must begin:

1. Where the respondent is in Detention and has been found not to have committed a Designated Felony, within 10 days of that finding.

2. In all other cases, within 50 days of the finding.

C. The recommendations of the Probation Department, if any, are introduced.

D. The Court may enter any *one* of the following Orders of Disposition:

1. **Conditional Discharge**.

   a. The respondent is discharged under stated conditions authorized by Statute.

   b. If, at the end of the period of the conditions (maximum one year), the child has met all of the conditions, he/she is unconditionally discharged.

   c. If, *before* the end of the period of conditions, the child fails to meet the conditions, he/she is brought back for a further Dispositional Hearing.

2. **Probation**.

   a. The child is put on Probation, under the control of the Probation Department, for a period not to exceed two years (renewable, in 1-year periods, by leave of the Court).

   b. If the child, while on Probation, commits a new crime (or otherwise violates the conditions of Probation), the *Violation of Probation Procedure* must be followed.

      1. The Probation Department files a Petition of Violation based on reasonable cause.

      2. The Presentment Agency presents the details of the violation.

      3. The respondent can rebut.

      4. The Court enters an Order of Disposition.

3. **Placement** — the Judge decides to place the child:

   a. With either:

      1. The *Department of Social Services*, which may:

         a. Return the child to the Court for a new Order of Disposition.

         b. Under certain circumstances, transfer the child to a mental hygiene facility.

      2. Or the *New York State Division for Youth* in either Secure or Non-Secure Detention.

   b. For an initial period:

      1. For Designated Felonies.

         a. Called a "Class A Designated Felony" in the Statute, 5 years maximum.

         b. Other kinds of Designated Felonies, 3 years maximum.

         c. Other felonies, 18 months maximum.

      2. For Misdemeanors, 12 months maximum.

XII. After a Dispositional Hearing, either party may make one or more of the following motions:

A. For a new Fact-Finding Hearing.

B. For a new Dispositional Hearing.

C. For a Stay of Execution of any Order of Disposition.

D. To set aside/modify/terminate or vacate any Order of Disposition.

XIII. An Appeal (to an Appellate Division) may be taken:

A. As a matter of right:

1. By the respondent, from any Order of Disposition.

2. By the Presentment Agency, from:

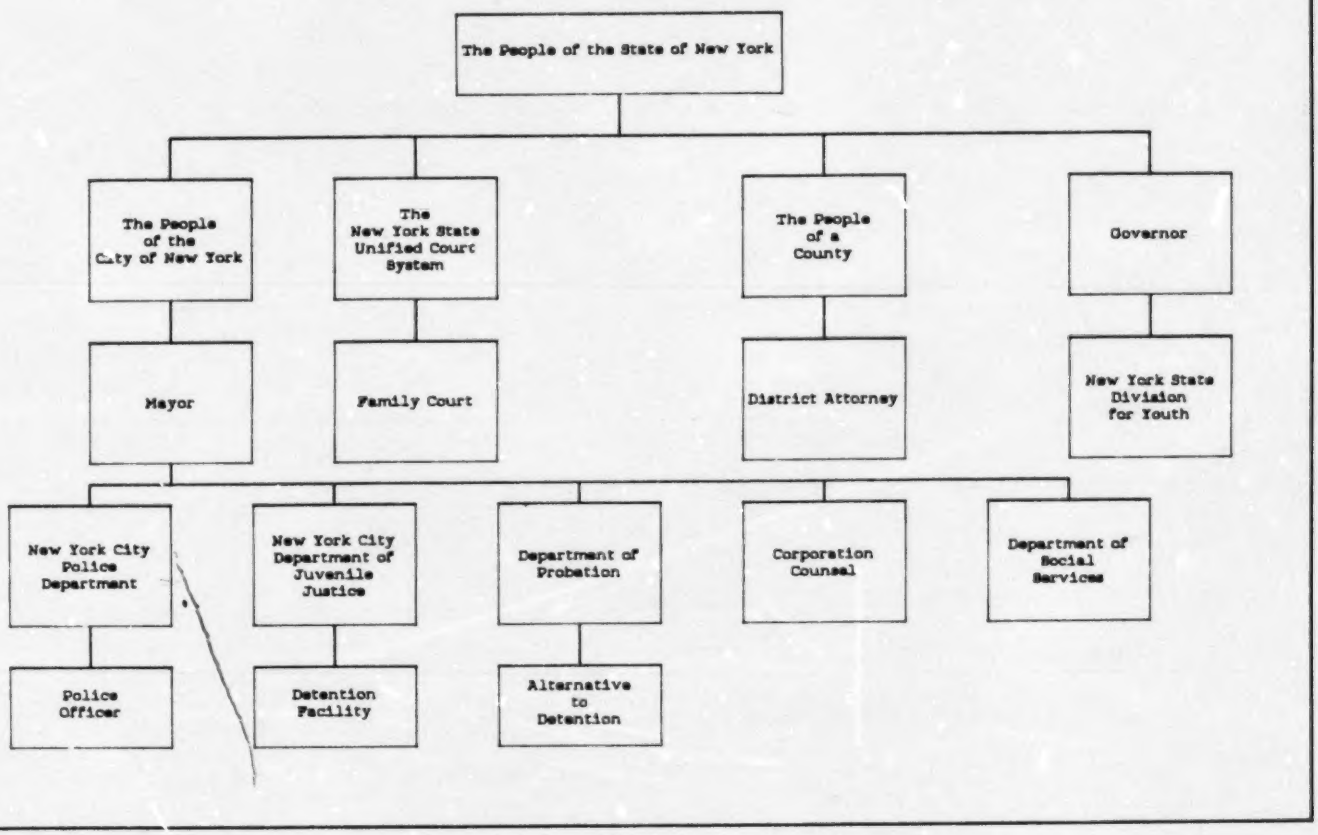
a. A dismissal of a Petition prior to a Fact-Finding Hearing.

b. An Order of Disposition, on the grounds that the Disposition was invalid as a matter of law.

c. An Order suppressing evidence.

B. With the permission of the Appellate Division, by the respondent, from any Order.

SKELETAL ORGANIZATION CHART OF THE ENTITIES INVOLVED


The People of the State of New York
The People of the City of New York
The New York State Unified Court System
The People of a County
Governor
Mayor
Family Court
District Attorney
New York State Division for Youth
New York City Police Department
New York City Department of Juvenile Justice
Department of Probation
Corporation Counsel
Department of Social Services
Police Officer
Detention Facility
Alternative to Detention

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GLOSSARY

BILL OF PARTICULARS	Items of factual information which pertain to the charge.
DESIGNATED FELONY	An act which, if committed by an adult, would be a felony, and which has been called, by the Statute, a *Designated Felony.*
DIAGNOSTIC ASSESSMENT	An evaluation of the respondent by the Family Court's Bureau of Mental Health Services.
FELONY	A crime punishable (by Statute) by a sentence of more than one year.
JUVENILE DELINQUENT	An individual between the ages of 7 and 16 years who has been declared a juvenile delinquent by the Family Court.
MISDEMEANOR	A crime which is punishable (by Statute) by a sentence of between 15 days and 1 year.
PRESENTMENT AGENCY	Either the District Attorney of the applicable County (for Designated Felonies) or the Corporation Counsel (for anything else).
RECOGNIZANCE	Personal promise to appear at a stated place, on a stated date, at a stated time, for a stated purpose.
RESPONDENT	A person between 7 and 16 years of age who has been arrested.
VENUE	The location of the applicable Court.